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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DANIEL SZABO,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants.

Case No.: 2:12-cv-00676-GMN-RJJ

**STIPULATED PROTECTIVE ORDER**

Plaintiff, Daniel Szabo, ("Plaintiff" or "Szabo") and Defendant, the United States of America, ("Defendant" or the "United States"), through their undersigned counsel, stipulate and request the entry of a protective order as stated herein.

Without admission or waiver by any party, the general nature of this action is as follows. This action arises out of a motorcycle accident that occurred on or about January 14, 2010 on a highway in the Lake Mead National Recreation Area. Plaintiff alleges that Defendant was negligent in its maintenance of the highway; Defendant denies such allegations. The parties anticipate that discovery may involve third-party, personnel, training, medical, and/or other records that are likely to contain

1 confidential information including, but not limited to, records and information protected by the  
2 Privacy Act of 1974, 5 U.S.C. § 552a, and the Health Insurance Portability and Protection Act of 1996,  
3 Pub. L. No. 104-191, 110 Stat. 1936 (1996).

4 Through this protective order, the parties seek to address the handling of such third-party,  
5 personnel, training, medical, and other records that are likely to contain confidential information  
6 including, but not limited to, records and information protected by the Privacy Act and the Health  
7 Insurance Portability and Protection Act. In order to permit the parties to discover and disclose to  
8 each other such confidential information as is relevant to this case, and pursuant to Rule 26 of the  
9 Federal Rules of Civil Procedure, the parties stipulate and consent to the following:

10 1. The United States is authorized to release to other parties in this case records and  
11 information otherwise protected by the Privacy Act without obtaining prior written consent of the  
12 individual(s) to whom such records pertain, provided that such information is reasonably related to this  
13 litigation. Nothing in the protective order is intended to limit or preclude in any way the United  
14 States' existing rights to access and review documents containing Privacy Act information.

15 2. Whenever counsel for any party believes that formal or informal discovery in this case  
16 may reveal or has revealed third-party, personnel, training, medical, and/or other records that are likely  
17 to contain confidential information including, but not limited to, records and information protected by  
18 the Privacy Act or the Health Insurance Portability and Protection Act, the following procedures shall  
19 be followed:

20 a. Counsel for the party producing records containing confidential information  
21 shall designate the information as subject to this order by letter and by marking documents containing  
22 such information with the notation "CONFIDENTIAL." Upon request from the other party, counsel  
23 for the producing party will promptly explain its basis for designating material as being subject to the  
24 protective order.

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26 . . .

1           b.       The right of access to all records designated "CONFIDENTIAL" under this  
2 order (unless the parties have agreed otherwise or the Court enters a separate order permitting  
3 disclosure) shall be limited to the parties, counsel for the parties, consultants, and expert witnesses, as  
4 well as staff in their employ with a need for access in order for each party to prosecute or defend this  
5 action including, but not limited to, paralegals, legal assistants, and nurses, and any other persons  
6 mutually authorized by all counsel to examine such materials. Any person having access to  
7 information subject to this order shall be informed that it is confidential and subject to a protective  
8 (non-disclosure) order of the Court. Persons outside the employ of the parties or counsel, such as  
9 retained consultants and expert witnesses, shall sign an acknowledgment in accordance with paragraph  
10 2(d) below.

11           c.       Except as provided herein, no person having access to records designated as  
12 subject to this order shall reveal to any person not named in paragraph 2(b) any information contained  
13 in such material without further order of the Court or stipulation of the parties.

14           d.       Each person outside the employ of a party or counsel, such as retained  
15 consultants and expert witnesses, to whom is disclosed records or information designated  
16 "CONFIDENTIAL" under this protective order, shall sign and date an acknowledgment, substantially  
17 in the form as that attached hereto, affirming that they have read and agree to be bound by the terms of  
18 this protective order. A retaining party or counsel shall maintain in his or her file a copy of any  
19 acknowledgment signed by a consultant or expert witness. A retaining party or counsel shall, upon  
20 request, serve on opposing counsel a copy of any acknowledgment signed by a designated expert  
21 witness.

22           e.       When a CONFIDENTIAL record is marked as an exhibit, or otherwise used  
23 during questioning at a deposition, counsel shall inform the court reporter of the CONFIDENTIAL  
24 designation, and the document and applicable portions of the deposition transcript shall be treated as  
25 CONFIDENTIAL in accordance with the terms of this order.

26 . . .

1 f. CONFIDENTIAL records shall be filed, if at all, under seal, subject to and in  
2 accordance with, *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006) and this  
3 Court's CM/ECF filing procedures for sealed materials.

4 g. If a party disagrees with a designation of any records or information as  
5 CONFIDENTIAL, such party shall serve a written notice of objection and bases for objection within  
6 fifteen (15) days of the production of the designated CONFIDENTIAL records or information. The  
7 parties shall then have fifteen (15) days to confer in good faith efforts to resolve the dispute, and no  
8 motion concerning same shall be filed with the Court during this period of time to confer. If the  
9 parties are unable to resolve the dispute, the party asserting the CONFIDENTIAL designation shall  
10 file an appropriate motion with the Court within fifteen (15) days after the parties' failure to resolve  
11 the dispute. The failure to timely serve a written objection and bases, as set forth herein, shall  
12 constitute a waiver of the objection. The failure to timely file an appropriate motion with the Court, as  
13 set forth herein, shall constitute a waiver of the designation. Until such time as any designation  
14 dispute is resolved by the parties or adjudicated by the Court, the parties shall treated designated  
15 records or information as CONFIDENTIAL in accordance with the terms of this order.

16 h. Within forty-five (45) days of the conclusion of all trial and appellate  
17 proceedings in this case, counsel for the receiving party shall either return to counsel for the producing  
18 party all documents and copies of documents designated as "CONFIDENTIAL" under this order or  
19 certify that such documents and copies have been destroyed.

20 i. This order is without prejudice to the rights of any party to introduce, or object  
21 to the introduction, into evidence at trial or during summary judgment proceedings any materials that  
22 are subject to this order.

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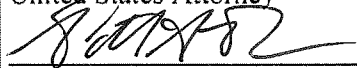
25 . . .

26 . . .

1 j. This order is without prejudice to the rights of any party to make any objections  
2 to discovery requests as permitted by the Federal Rules of Civil Procedure, statute, or other authority.

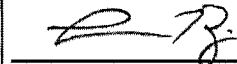
3  
4 Respectfully submitted this 5<sup>th</sup> day of October, 2012.

5 DANIEL G. BOGDEN  
6 United States Attorney



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20 *Attorneys for Plaintiff*

21  
22 IT IS SO ORDERED.



23 Gloria M. Navarro  
24 United States District Judge

25 DATED: 10/23/2012  
26

**ACKNOWLEDGMENT AND AGREEMENT  
RE: ACCESS TO CONFIDENTIAL RECORDS AND INFORMATION  
SUBJECT TO STIPULATED PROTECTIVE ORDER**

NAME: \_\_\_\_\_ (print or type)

NAME OF FIRM: \_\_\_\_\_ (print or type)

ADDRESS OF FIRM: \_\_\_\_\_ (print or type)

PHONE NUMBER: \_\_\_\_\_ (print or type)

E-MAIL: \_\_\_\_\_ (print or type)

I, \_\_\_\_\_ (print or type), certify that I have read the Stipulated Protective Order, dated \_\_\_\_\_, and entered in the case entitled *Daniel Szabo v. United States of America, et al.*, case no. 2:12-cv-00676-GMN-RJJ, in the United States District Court, District of Nevada (the "Court"). I acknowledge, understand, and agree that I am personally bound by and subject to all of the terms and provisions of the Stipulated Protective Order with respect to the handling and non-disclosure of records that have been designated CONFIDENTIAL. I subject myself to the jurisdiction and venue of said Court for purposes of enforcement of the Stipulated Protective Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date